



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/782,374	02/19/2004	Wenjie Deng	3002 P268AUS	3567
30497 7590 09/01/2010 FLYNN, THIEL, BOUTELL & TANIS, P.C. 2026 RAMBLING ROAD KALAMAZOO, MI 49008-1631				
EXAMINER				
BUL VY Q				
ART UNIT		PAPER NUMBER		
3773				
MAIL DATE		DELIVERY MODE		
09/01/2010		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/782,374

Applicant(s)

DENG ET AL.

Examiner

Vy Q. Bui

Art Unit

3773

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 04 June 2010.
2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 12-30, 32 and 36-402 is/are pending in the application.
4a) Of the above claim(s) _____ is/are withdrawn from consideration.
5) ☒ Claim(s) 12-29 is/are allowed.
6) ☒ Claim(s) 30, 32 and 36-40 is/are rejected.
7) ☐ Claim(s) _____ is/are objected to.
8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SF-08)
Paper No(s)/Mail Date _____
4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____

DETAILED ACTION

Election/Restrictions

Claims 6-11 directed to a sub-combination have been withdrawn and canceled from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected invention. Election was made **without** traverse for further examination of the invention as recited in claims 12-32 in the reply filed on 2/5/2009.

Drawings

The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the devices in claims 32, 36-38 as an edger, a planner, a burr, a resector, an open window shaver must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet"

pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claim Rejections - 35 USC § 103

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

1. Claims 30, 32, 36-40 are rejected under 35 U.S.C. 103(a) as being unpatentable over Rexroth-5,269,794 (Rexroth) in view of Gray-6,019,745 (Gray).

As to claim 30, 36, 37, 39 and 40, Rexroth (F 4; C 3, L 37-59; C 8, L 50-63; C 9, L 15-91, C 14, L 3-9, for example) discloses cutting accessory (70, 71) for attachment to powered surgical tool 11 for cutting tissue comprising shaft 74 designed for cutting tissue; a coupling designed to removably attach said shaft 74 to powered surgical tool 11 and to facilitate a transfer of power from the powered surgical tool 11 to said shaft 74, a cutting head or burr or resector (73) attached to or integrally formed with a distal end of said shaft 74.

Rexroth discloses magnetic device 92 (C 3, L 37-59; C 9, L 15-91) for communication between cutting accessory (70, 71) and powered surgical tool 11. Rexroth does not disclose magnetic device 92 as a transponder comprising a solid state chip and an attached length of electrical conductor / coil embedded within a solid substrate.

Gray discloses a medical device that transmits data via magnetic technology. Gray also states that a transponder 15 that utilizes antennae (16, 17) resonating at radio frequencies could also be used (C3:L45-48; C7:L41-50) to wirelessly communicate identification and operational data. It would have been obvious to one of ordinary skill in the art at the time of the

invention to use a transponder and antenna device for storing and transmitting or to communicate data instead of a magnetic chip. Gray shows that using a transponder with an antennae device is an equivalent device to a magnetic device to perform the same function of storing and transmitting data. These two devices (magnetic chip or transponder with an antennae) of storing and transmitting data were art-recognized equivalents at the time of the invention was made, therefore it would have been obvious to one of ordinary skill in the art to substitute each one for the other, since substitution of one device for another equivalent device well-recognized in the art would have yielded predictable results: to successfully storing and transmitting data.

As to claims 32, 38, Rexroth (C 7, L 50-53) discloses cutting head as drill, saw or burr 73, but does not specifically disclose cutting head as an edger, or a planner, or a window shaver. However, it would have been obvious to one of ordinary skill in the art to substitute a cutting head like a burr for other cutting head like an edger, or a planner, or a window shaver, because the success of substitution one cutting head for another one would be well predictable.

Allowable Subject Matter

Claims 12-29 are allowed.

Response to Amendment

Applicant argued that Rexroth device uses a magnetic device 92 to wirelessly communicate data. However, Gray discloses a medical device that transmits data via magnetic technology. Gray further states that an electronic transponder (15) that utilizes antennae (16, 17) resonating at radio frequencies could also be used (C3, L45-48; C7, L41-50). The electronic

transponder outputs data bits and the antenna is configured to transmit multiple bits of data (C6, L34-47). Gray discloses that the antenna coil can be wound around the axis of the device thus meeting the limitation that the antenna extends circumferentially around the hub (C6, L38-43). It would have been obvious to one having ordinary skill in the art at the time of the invention to use a transponder and antenna device instead of a magnetic chip. Gray shows that using a transponder and antennae is an equivalent structure to magnetic technology to perform the same function of carrying and transferring data. Because the two forms of communicating data were art-recognized equivalents at the time of the invention was made, one of ordinary skill in the art would have found it obvious to substitute the one for the other, since substitution of one known element for another would have yielded predictable results, to transmit data.

Applicant further argued that the transponder of Gray is not removably secured to the Gray device. However, it would have been obvious to one having ordinary skill in the art at the time the invention was made to make the transponder of Gray removable since it has been held that making an old device portable or movable without producing any new and unexpected result involves only routine skill in the art. In re Lindberg, 93 USPQ 23 (CCPA 1952).

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period

Art Unit: 3773

will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Vy Q. Bui whose telephone number is 571-272-4692. The examiner can normally be reached on Monday-Tuesday and Thursday-Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jackie Ho can be reached on 571-272-4696. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Vy Q. Bui/
Primary Examiner, Art Unit 3773